

REMARKS/ARGUMENTS

This is a response to the final Office Action dated October 17, 2007.

Claims 1-5, 7-17 and 19-28 are pending in the present application with claim 1 being in independent form. By the present Amendment, claim 1 has been amended to further clarify the features of the present application.

With regard to the Examiner's comments regarding the Oath and Declaration, Applicants submit herewith a replacement Declaration and Power of Attorney which includes the correct statement reading, "I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations, Section 1.56." It is believed that this replacement Declaration is in compliance with 37 C.F.R. Section 1.67(a).

The Examiner indicates that the Information Disclosure Statement filed June 6, 2007 fails to comply with 37 C.F.R. §1.98(a)(2) which requires a legible copy of each cited foreign patent document, each non-patent literature publication of that portion which caused it to be listed in all other information or that portion that caused it to be listed. Applicants respectfully submit that the Information Disclosure Statement dated June 6, 2007 did comply with 37 C.F.R. §1.98(a)(2), because legible copies of each of the foreign language documents identified therein were submitted with the Information Disclosure Statement. Further, the relevance of these references with respect to the present application was indicated in the English language translation of the Japanese Office Action in which these references were cited, which was also submitted with the Information Disclosure Statement dated June 6, 2007. Accordingly, it is respectfully submitted that the previously submitted Information Disclosure Statement is in compliance with 37 C.F.R. §1.98(a)(2).

Claims 1-5, 7, 9, 10, 19, 23 and 25 of the present application have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 6,063,103 to Hashiguchi.

The Examiner contends that Hashiguchi discloses substantially all the features of claim 1, for example, of the present application. Applicants respectfully disagree.

Hashiguchi, as understood by Applicants, relates to endoscope forceps that include an operating section for inputting an operating force and an insertion section which is fixably

connected to the operating section and which can be inserted into a channel of an endoscope. An operating rod may also be inserted in the insertion section to be movable forward and backward. One end of the operating rod is connected to the operating section which is moved forward and backward by the operating force input to the operating section. A forceps section is exposed at the fore end of the insertion section. The forceps section includes jaws that are operated by the operating rod.

Hashiguchi, however, does not disclose a surgical instrument including, “a support having a proximal end which supports the end effector;” “a base member which has distal and proximal ends, and pivotally supports the proximal end of the support on the distal end to enable the end effector and the support to be rotated together with respect to the base member;” “an elongate member which has a proximal end and a distal end at which the base member is located;” and “an extended portion which is disposed in the distal end of the elongate member to prevent one of forward rotation and backward rotation of the base member with respect to the support, and also to extend and cover at least one side of the base member,” as is required by claim 1 of the present application.

The Examiner argues that the jaws 4, 5 of Hashiguchi correspond to the “end effector” of claim 1. The Examiner further argues that the pivot pin 14 in Hashiguchi corresponds to the “support” of claim 1 and that the operating rod 8 of Hashiguchi corresponds to the “base member” of claim 1. The Examiner further contends that the sheath 7 in Hashiguchi corresponds to the “elongate member” of claim 1 and that the support member 11 in Hashiguchi corresponds to the “extended portion” of the elongate member in claim 1. Applicants must respectfully disagree.

Claim 1 of the present application requires, among other things, “a base member which has distal and proximal ends, and pivotally supports the proximal end of the support on the distal end to enable the end effector and the support to be rotated together with respect to the base member.” That is, in accordance with claim 1, the end effector and the support are rotated with respect to the base member.

In contrast, in Hashiguchi, the jaws, 4, 5, which the Examiner contends correspond to the claimed “end effector” of claim 1, merely open and close. There is no disclosure in Hashiguchi that the jaws 4, 5 rotate relative to the operating rod 8, which the Examiner contends corresponds

to the “base member” of claim 1. Further, there is not disclosure in Hashiguchi that the jaws and the pivot pin 14, which the Examiner contends corresponds to the “support” of claim 1, rotates relative to the operating rod 8 either. The pivot pin 14 merely allows the jaws 4,5 to open and close. It does not, however, enable the jaws 4, 5 and the pin 14 to be “rotated together with respect to the base member,” as is required by claim 1. Thus, Hashiguchi fails to disclose, “a base member which has distal and proximal ends, and pivotally supports the proximal end of the support on the distal end to enable the end effector and the support to be rotated together with respect to the base member,” as is required by claim 1.

In addition, while the sheath 7 of Hashiguchi does include a proximal and distal end, the operating rod 8, which the Examiner argues corresponds to the base member of claim 1, is not located at the distal end of the sheath 7. In fact, the operating rod 8 extends along the entire length of the sheath 7. Thus, Hashiguchi fails to disclose, “an elongate member which has a proximal end and a distal end at which the base member is located,” as is required by claim 1 of the present application.

The support member 11 in Hashiguchi is covered by the sheath 7, but is not a part of the sheath 7. Thus, the support member 11 is not, “an extended portion which is disposed in the distal end of the elongate member,” as is required by claim 1. Further, there is no discussion in Hashiguchi that the support member 11 prevents forward and backward rotation, or indeed, any movement of the rod 8 with respect to the pin 14. Indeed, to the contrary, the support member 11 is specifically designed to allow the rod 8 to move backward and forward therein to operate the jaws 4, 5. In addition, there is no disclosure in Hashiguchi to suggest that the support member 11 covers at least one side of the operating rod 8. Indeed, the rod 8 clearly extends beyond the end of the support member 11, which is indicated by reference numeral 11a and Figures 3A, 3B and 3C of Hashiguchi. Thus, Hashiguchi fails to disclose, “an extended portion which is disposed in the distal end of the elongate member to prevent one of forward rotation and backward rotation of the base member with respect to the support, and also to extend and cover at least one side of the base member,” as is also required by claim 1 of the present application.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, are patentable over the cited art for at least the reasons described above.

Claims 8 and 11 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hashiguchi in view of U.S. Patent No. 6,066,151 to Miyawaki et al. (hereinafter “Miyawaki”). Reconsideration of this rejection is respectfully requested.

Claims 8 and 11 depend indirectly from claim 1. As is noted above, it is believed that claim 1 is patentable over the cited art for at least the reasons described above. Further, it is respectfully submitted that claim 1 is patentable over the combination of Hashiguchi and Miyawaki, since Hashiguchi and Miyawaki, either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 8 and 11, are patentable over the cited art for at least the reasons described above.

Claims 15-16 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hashiguchi in view of Lee and Miyawaki. Reconsideration of this rejection is respectfully requested.

Claims 15 and 16 depend indirectly from claim 1. As is noted above, it is believed that claim 1 is patentable over the combination of Hashiguchi and Miyawaki. Further, it is respectfully submitted that claim 1 is patentable over the combination of Hashiguchi, Lee and Miyawaki since none of these references, either alone or in combination, show or suggest the patentable features of claim 1 discussed above.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 15-16, are patentable over the cited art for at least the reasons described above.

Claim 17 has been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hashiguchi in view of Miyawaki. Reconsideration of this rejection is respectfully requested.

Claim 17 depends indirectly from claim 1. As noted above, it is believed that claim 1 is patentable over a combination of Hashiguchi and Miyawaki. Thus, it is respectfully submitted that claim 17 is also patentable over the combination of Hashiguchi and Miyawaki since it depends on independent claim 1.

Claims 12, 13, 14, 20-22 and 26-28 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Hashiguchi in view of Lee. Reconsideration of this rejection is respectfully requested.

Claims 12, 13, 14, 20-22 and 26-28 depend indirectly from claim 1. As noted above, it is believed that claim 1 is patentable over Hashiguchi. Further, it is respectfully submitted that claim 1 is patentable over the combination of Hashiguchi and Lee since Hashiguchi and Lee, either alone or in combination, fail to show or suggest the patentable features of claim 1 described above.

Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 12, 13, 14, 20, 22 and 26-28, are patentable over the cited art for at least the reasons described above.

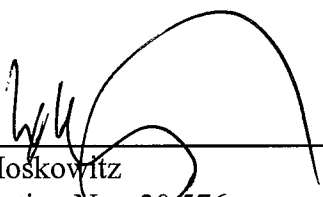
In light of the remarks and amendments made herein, it is respectfully submitted that claims 1-5, 7-17 and 19-28 of the present application are patentable over the cited art and are in condition for allowance.

Favorable reconsideration of the present application is respectfully requested.

Respectfully submitted,

THIS CORRESPONDENCE IS BEING
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MM:KJB/jl



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